IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Himmat Singh. Versus State of Rajasthan & ors.

S.B. Criminal Misc. Petition No. 199/2001
against the order dated 18-8-2000 passed
by the Additional Sessions Judge No.1,
Chittorgarh, in Criminal Revision No. 15/2000.

...

Date of Order: August 28, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Sudhir Saruparia, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Pradeep Shah, for the non-petitioner No.2 to 4.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has assailed the order dated 18-8-2000 passed by the additional Sessions Judge No.1, Chittorgarh (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 15/2000, whereby the revision petition filed by the petitioner against the order dated 20-2-1998 passed by the Judicial Magistrate, Chittorgarh (for short, "the trial Court" hereinafter), was dismissed.

I have heard learned counsel for the parties.

Carefully gone through the orders passed by the trial Court and the Revisional Court and also gone through the record of the trial Court.

An FIR No. 94/97 was lodged by non-petitioner No.3 Lobhchand, on which the vehicle Dumper No. RJ.09-G-495 was seized by the police. After investigation, it appears that the police filed the negative final report. However, during pendency of the investigation, the petitioner as well as non-petitioner No.3 Lobhchand, both, filed applications under Section 451/457 of the Code seeking interim custody of the said vehicle. The application filed by non-petitioner No.3 Lobhchand was allowed and the interim custody of the vehicle was directed to be given to non-petitioner No.3 Lobhchand vide order dated 20-2-1998 passed by the trial Court on the ground that the petitioner, which claims to be the financer and the said vehicle was financed to non-petitioner No.2 Shabhu Lal and it stands registered in his name, who, in turn, sold it to non-petitioner No.3 Lobhchand and and finding non-petitioner No.3 Lobhchand as the bonafide purchaser of the vehicle, held him entitled for the interim custody of the vehicle. That order of the trial Court came to be challenged before the Revisional Court and the revision petition was dismissed vide order dated 18-8-2000.

The vehicle in question is in the custody of non-petitioner No.3 Lobhchand, who has purchased it from non-

petitioner No.2 Shambhu Lal. By an interim application, the rights of the parties cannot be determined. It is an interim arrangement by the order impugned directing the custody of the vehicle in favour of non-petitioner No. 3 Lobhchand, who is said to be the bona fide purchaser for a valid consideration. Both the Courts below found non-petitioner No.3 Lobhchand to be best entitled for the interim custody of the vehicle. In the circumstances, therefore, I do not find any error, illegality or perversity in the orders impugned warranting interference in the inherent jurisdiction of this Court.

Consequently, the criminal miscellaneous petition is dismissed. However, it is always open for the petitioner, who claims himself to be the financer, to move against non-petitioner No.2 Shambhu Lal, to whom he had financed if there is any breach of a contract.

(H.R. PANWAR), J.

mcs